IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1092 OF 1998

Rajia S. Shaikh ..Appellant

versus

Ramchandra J Patil & ors. ..Respondents

Mr. K. S. Patil i/b. P. N. Joshi for the Appellant.

None for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 17TH FEBRUARY,2005

ORAL ORDER :

1. Heard counsel for the appellant. Respondents are served. Nobody is present for them.

2. Appellant is the owner of the vehicle and liability to pay Rs.50,000/- as compensation to the victim - respondent has been saddled upon him by the Motor Accident Claims Tribunal, Nashik, vide Judgment dated 31.12.1997. It was a case of partial disabelement. Victim was auto rickshaw driver. He claimed Rs.1 lac and Rs.50,000/- was granted to him as per paragraph 12 of the judgment. Counsel for the appellant contended that the Tribunal has awarded Rs.30,500/- towards medical expenses without there being an iota of evidence supporting the claim. The discussion in paragraph 12 clearly shows that the bills produced by the claimant were not at

all acceptable because there were some over writings on the bills and over writing in the name of the claimant. The Tribunal came to the conclusion that it could not be positively said that the claimant had incurred expenditure of Rs.62,116/- for medical expenses. But however even then the Tribunal has awarded Rs.30,500/- towards medical expenses. There is no logic behind granting this amount. No evidence is there. However, looking to the nature of the accident, he might have spent Rs.5,000/-, therefore on humanitarian grounds Rs.5,000/- can be paid to him. Appeal is however required to be allowed partly. Hence, the order :

ORDER

. Appeal is partly allowed. Compensation awarded to the claimant - respondent is reduced to Rs.25,000/-. No order as to costs. If the claimant has withdrawn the entire amount he will be liable to pay Rs.25,000/- to the appellant within six weeks from this order, otherwise he will be liable to pay interest at the rate of 6% per annum to the Appellant.

17.02.2005 (D. G. DESHPANDE, J.)